IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 410 OF 2006

IN

APPEAL FROM ORDER NO. 73 OF 2005

EDC CO-OPERATIVE HOUSING SOCIETY LTD. PRESENTLY REP.BY ITS CHAIRMAN ....Applicant

Versus

EDC LTD.,PANAJI GOA. ....Respondent

Mr. S. D. Lotlikar, Sr. Advocate with Mrs. Shambhavi Rao, Advocate for the applicant.

Mr. P. S. Rao, Advocate for the respondent.

Coram:- P.V. KAKADE, J.

Date:- 26th September, 2006

P.C.

Heard both sides. This is an application seeking to recall the Order dated 2.3.2006 with submission that the applicant be given opportunity to be heard, as it was not served while the order came to be passed. On the other hand, it is submitted on behalf of the respondent that the service was properly made on the registered address of the Society and, therefore, there is no merit in the application on the ground that the service was not proper.

2. Perused the Order dated 2.3.06. The initial obervation itself shows that while passing the order, the Court observed that the Advocate for the appellant was heard, but none was present for the respondent though served.

Now, it is submitted on behalf of the applicant that though the

registered address of the Society is "EDC House, Panaji-Goa", it was also mentioned in the title of suit that the Society was represented by the Chairman and his address was at "Khorlim, Mapusa, Goa" by virtue of resolution passed by the Society. If it was the position and the service was made on the address of the Society, I am of the view that though technically service on the Society is effected, it has definitely caused prejudice to the applicant and, therefore, the applicant deserves to be heard in the matter before passing any order.

3. Hence, it is directed that the Order dated 2.3.06 is, hereby, recalled and the matter be kept for hearing afresh, in the interest of justice. S.O. next week.

P.V. KAKADE, J.

ssm.